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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/874,421	06/05/2001	William P. Lord	US010280	5689

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BRIARCLIFF MANOR, NY 10510

EXAMINER

SHANG, ANNAN Q

ART UNIT	PAPER NUMBER
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2623

MAIL DATE	DELIVERY MODE
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02/02/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/874,421

Applicant(s)

LORD, WILLIAM P.

Examiner

Annan Q. Shang

Art Unit

2623

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 18 December 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.



CHRIS KELLEY
SUPERVISORY PATENT EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because: With respect to claims 18 and 20-24 rejected under 102(e) over Blackketter (6,772,438), applicant discusses the claimed invention and argues that, "Blackketter fails to teach concurrently initiating a recording of broadcast video and a recording of web content..." (see page labeled 6 of 8+ of Applicant's Remarks/Discussion of Issues).

In response, Examiner disagrees. Examiner notes applicants arguments, however, Blackketter teaches that the viewer can perform various procedures to record and playback television and web content. When the viewer interact or request to select a TV program for recording and playback, the Receiver stores the television program and associated web content and URL, however if the web content is not included in the television signal, the receiver uses the received URL to retrieve (download) from a web server via communication interface 226 and communication link 212, the web content associated with the television program (col.4, line 39-col.5, line 25). Hence applicant's arguments are not persuasive, the 102(e) rejection of claims 18 and 20-24 is proper, meets all the claim limitations and maintained

With respect to claims 1-8, 10-12, 19 and 25-26, rejected under 103(a) over Blackketter (6,772,438) in view of Hull et al (2002/0056082), applicant cites MPEP with respect to establishing a prima facie case of obviousness and argues that Blackketter fails to teach the recording of TV broadcast and downloaded web content (see page labeled 7 of 8 of applicant's Remarks)

In response, Examiner disagrees. Examiner notes applicants arguments, however, as discussed above, Blackketter teaches all the claim limitations, but silent to synchronizing for storing the TV program and Internet content or downloaded web content, a deficiency disclosed in Hull, which teaches techniques for receiving information during multimedia presentations and further discloses a presentation recorder Appliance 'PRA' 100, which receives multimedia presentation source and external source and synchronizes the multimedia presentation source and external source for storage using time stamps within the received sources and retrieves for presentation to a user (page 2, [0031-0033], [0038-0041] and page 11, [0112-0115]). With respect to applicant's argues as to establishing a prima facie case of obviousness, Examiner, maintains that, the test for obviousness is not whether the features of a secondary reference may be bodily incorporate into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. In this case both references are in the same field of endeavor. i.e., TV receiver for recording and playing back TV programs, as such combining the teaching of Hull with Blackketter would be within the knowledge of one of ordinary skill in the art and appropriate motivation was given. Hence applicant's arguments are not persuasive, the 103(a) rejection is proper, meets all the claim limitation and maintained. The finality of the last Office Action is hereby maintained.